

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 5900 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD MUNICIPAL CORP.

Versus

SANT TULSI VIDYA SANGAM TRUST

Appearance:

MR KS JHAVERI for Petitioner
MR DF AMIN For respondent.

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.C.PATEL

Date of decision: 25/09/2000

ORAL JUDGEMENT [Per Panchal, J.]

Admitted. Mr. D.F. Amin, Ld. counsel waives

service of notice on behalf of the respondent. Having regard to the facts of the case and in view of the joint request made by the learned counsel for the parties, the appeal is taken up for final hearing today.

2. By means of filing this appeal u/S. 411 of the Bombay Provincial Municipal Corporations Act, 1949, the appellant has challenged legality of the judgment and order dated 29/1/1999 rendered by the Ld. Judge, Small Causes Court No.7, at Ahmedabad in Municipal Valuation Appeal No. 7346 of 1994 by which the Gross Ratable Value (G.R.V.) of the property in question for the assessment year 1993-94 is reduced from Rs.69,714/- to Rs.38,566/-.

3. Heard the learned counsel for the parties. It may be stated that the gross ratable value of the property belonging to the respondent was assessed at Rs.69,714/- for the assessment year 1993-94 by the Corporation. Feeling aggrieved by the said assessment, the respondent had preferred Municipal Valuation Appeal No. 7346 of 1994 before the Small Causes Court at Ahmedabad. At the time of hearing of the appeal an affidavit was filed by the respondent indicating cost of construction of the extra rooms. According to the said evidence the cost of the property was mentioned to be Rs.5,90,828/-. It was submitted by the learned counsel for the respondent that 6% of the cost of construction should be assessed as G.R.V. adding Rs.2700/- for the old construction. Para. 2 of the impugned judgment indicates that learned advocate for the present appellant had also submitted that the respondent being an education trust, G.R.V. should be fixed for the new construction at the rate of 6% of the value of the property which would be proper and reasonable. Having regard to the evidence produced by the respondent as well as concession made by the learned counsel for the present appellant, the Court has reduced G.R.V. of the property from Rs.69,714/- to Rs.38,566/-. The concession which was made by the learned counsel for the appellant before the Court is not in dispute nor it is claimed in the present appeal that learned counsel for the present appellant had no authority to make such a concession before the Court. The judgment of the Court which is based on evidence produced by the respondent as well as concession made by the learned counsel for the present appellant cannot be said to be illegal warranting our interference in the present appeal. The appeal has, therefore, no substance and is liable to be dismissed.

4. For the foregoing reasons, the appeal fails and is dismissed with no order as to costs. It is clarified

that this judgment would be applicable for the relevant assessment year i.e. 1993-94.

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PVR.